

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

WILLIE WARD,	}	
	}	
Plaintiff,	}	
	}	
v.	}	CIVIL ACTION NO.
	}	12-AR-0835-S
	}	
WELLS FARGO BANK, N.A.,	}	
	}	
Defendant.	}	

MEMORANDUM OPINION

The court has for consideration the motion of defendant, Wells Fargo Bank, N.A. (incorrectly named in the complaint as "Wells Fargo Home Mortgage") ("Wells Fargo"), for summary judgment, pursuant to Rule 56, F.R.Civ.P. Plaintiff, Willie Ward ("Ward"), has not responded to defendant's Rule 56 motion. Nevertheless, it is incumbent upon the court to determine for itself if there are undisputed facts to support the movant's Rule 56 motion. Ward, the non-movant, is entitled to all inferences that can be drawn in his favor.


The court has considered all materials submitted by Wells Fargo, including its rendition of the material facts. If this case were not distinguishable from *Duke, et al. v. Nationstar, LLC*, CV-12-AR-0157-S, in which this court denied a *Rooker-Feldman* defense, and thus far has denied a *res judicata* defense, this court would deny Wells Fargo's motion, but there is a crucial factual distinction between this case and *Nationstar* that renders the undisputed facts in this case dispositive in favor of Wells Fargo,

both under *Rooker-Feldman* and *res judicata*.

This court does not retreat from what it said in *Nationstar*, in criticism of the sub-prime mortgage industry, but in that case, the mortgagee itself purchased the property at foreclosure sale, and thereof succeeded in obtaining a state court judgment for possession. Wells Fargo was not a party to the state court action preceding this case, but the purchaser at foreclosure sale, Freddie Mac, shares a succession in interest with Wells Fargo, a fact not present in *Nationstar*. Under the circumstances, Wells Fargo enjoys the protection that Freddie Mac has by virtue of the state court judgment.

Ward has not disputed the facts or principles of law contained in Wells Fargo's motion and attachments, and the court finds no misstatements or reasons to question the facts or law as stated by Wells Fargo. Accordingly, the facts and conclusions of law stated by Wells Fargo are hereby ADOPTED by this court as the undisputed facts and as its conclusions of law. By separate order, summary judgment will be granted in favor of Wells Fargo.

DONE this 9th day of November, 2012.


WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE